

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Bill Campbell Analyst: Darrine Distefano Bill Number: AB 246
Related Bills: See Legislative History Telephone: 845-6458 Introduced Date: 02-14-2001
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Child Adoption Credit/Increase to 100% of Costs Paid

SUMMARY

This bill would amend the existing Child Adoption Credit to increase the credit allowed from 50% to 100% of adoption costs.

PURPOSE OF THE BILL

The author's staff has indicated the purpose of this bill is to encourage more adoptions and to compensate taxpayers who adopt children via a tax credit.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. Thus, this bill would apply to taxable years beginning on or after January 1, 2001.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Federal law allows taxpayers to claim a nonrefundable credit for expenses incurred in adopting a child, up to a maximum of \$5,000 per adoption (\$6,000 for a special needs adoption). In addition, taxpayers may exclude from gross income employer contributions toward adoption expenses, up to a maximum of \$5,000 per adoption (\$6,000 for a special needs adoption). The credit and exclusion are phased out for taxpayers with adjusted gross income (AGI) exceeding \$115,000. The \$5,000 credit and the exclusions will not be available for expenses incurred after December 31, 2001. However, the \$6,000 special needs adoption credit is permanent. Any credit unused in the year earned may be carried forward for five years.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Alan Hunter for GHG

03/30/01

Current state law allows a credit equal to 50% (not to exceed \$2,500) of the costs paid or incurred by the taxpayer to adopt a minor child who is a citizen or legal resident of the United States and was in the custody of a public agency of California or a political subdivision of California. The costs eligible for the Child Adoption Credit include fees for required services of either the Department of Social Services or a licensed adoption agency, travel, and expenses for the adoptive family that are directly related to the adoption process. In addition, medical fees that are not reimbursed by insurance and are directly related to the adoption are qualified expenses.

This credit may be claimed for the taxable year in which the decree or order of adoption is entered.

Any deduction for expenses on which the adoption credit is based is reduced by the amount of the credit allowed.

THIS BILL

This bill would increase the percentage of the Child Adoption Credit from 50% to 100% of the costs paid or incurred for the adoption of a minor child who is a citizen or legal resident of the United States. The total amount of the credit is still limited to no more than \$2,500 per child.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would occur during the department's normal annual update.

LEGISLATIVE HISTORY

SB 1920 (Stats. 1994, Ch. 827, Lewis) enacted the current Child Adoption Credit. AB 119 (1997/1998, Runner), died in Senate Appropriations and would have repealed the Child Adoption Credit and conformed to the federal child adoption credit with modifications. AB 763 (1999/2000, Bates) died in Assembly Appropriations and would have conformed to the federal child adoption credit with modifications for adoptions that are not eligible for the state Child Adoption Credit.

OTHER STATES' INFORMATION

Massachusetts allows taxpayers to deduct from income a limited exemption for adoption fees paid to a licensed adoption agency.

Review of Illinois, Michigan, Minnesota, and New York laws found no comparable tax credits or deductions. These states were reviewed because of the similarities between California income tax laws and their tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill is estimated to impact Personal Income Tax revenue as shown in the following table.

Fiscal Year Cash Flow Taxable Years Beginning After December 31, 2000 Enactment Assumed After June 30, 2001 \$ Millions		
2001-02	2002-03	2003-04
-\$2	-\$2	-\$2

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

The revenue impact for this bill will be determined by the number of qualified adoptions made during any given taxable year, average qualifying costs, and the tax liabilities of claimants.

The above estimates are based on state tax return data for the 50% Child Adoption Credit. The current credit was increased to reflect the 100% credit allowed in the bill. This estimate was adjusted to account for the current law credits.

POLICY CONCERNS

Credits generally are provided as a percentage of amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented.

This credit is structured to allow the actual adoption costs to be aggregated and the credit claimed in the year the adoption occurs (date of decree or order of adoption being entered). As a result, in the case of an ongoing adoption where the decree or order is actually entered after January 1, 2001, but some or all of the costs are expended prior to that date, the entire amount of such costs would be eligible for the 100 percent credit provided under this bill.

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